



June 14, 2022

**Via Email:** *mclapper@baxter.k12.ia.us*

Dr. Mickolyn Clapper  
Superintendent  
Baxter Community School District  
202 East State Street  
Baxter, Iowa 50028

**RE:           Demand that Baxter Community School  
District Comply with H.F. 802 And Rescind  
Its “Social Justice in Literature” Course.**

Dear Dr. Clapper:

We represent Ms. Christie Wiebbecke, a concerned parent with children in the Baxter Community School District, for the purpose of this inquiry and legal demand. Specifically, we are concerned about the course offering, “Social Justice in Literature,” which purports to “use a social justice lens to analyze contemporary young adult fiction.” The course requires students to “focus on readings of their own choice based on contemporary issues” and eventually “create a portfolio based on the novels they read over the course of the year which will culminate into a final project focusing on social justice in their own lives and community.” For the reasons articulated below, this course violates Iowa law and must be rescinded.

## **I.     Factual Background**

As you know, on June 8, 2021, Governor Kim Reynolds signed into law House File 802 (HF 802), which prohibits the teaching of Critical Race Theory (CRT) and other divisive concepts based on race and sex stereotyping and scapegoating in government training programs and classroom curricula.<sup>1</sup> In an accompanying statement, Governor Reynolds explained that “Critical Race Theory is about labels and stereotypes, not education. It teaches kids that we should judge others based on race, gender, or sexual identity, rather than the content of someone’s character.”<sup>2</sup>

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<sup>1</sup> Ian Richardson, *Iowa Gov. Kim Reynolds signs law targeting critical race theory, saying she’s against ‘discriminatory indoctrination,’* Des Moines Register, June 8, 2021, <https://www.desmoinesregister.com/story/news/politics/2021/06/08/governor-kim-reynolds-signs-law-targeting-critical-race-theory-iowa-schools-diversity-training/7489896002/>

<sup>2</sup> *Id.*

Rather than promote learning, CRT promotes “discriminatory indoctrination,” and the people of Iowa have rejected that regressive ideology wholesale.<sup>3</sup> We are, thus, deeply troubled that “Social Justice in Literature” represents a willful circumvention of HF 802’s prohibitions. In practice and theory, social justice education is a proxy for CRT and sex-based stereotyping. As a result, this course, and similar efforts to undermine Iowa’s commitment to the American Founding, the Constitution, republican government, a colorblind society, meritocracy, individualism, equal opportunity and equal justice under law, and honest history and context, must be rescinded and ended. We call on you to do so immediately.

By way of introduction, America First Policy Institute (AFPI) is a non-profit, non-partisan research institute dedicated to advancing policies that put the American people first. Our guiding principles are political, religious, and economic liberty, the rule of law, America-first foreign policy, and a belief that American workers, families, and communities are indispensable to the success of our country. In our view, it is the mandate of policymakers, from local school boards to the United States Congress, to advance and serve these interests above all others. To this end, we affirm and celebrate the American experiment—not as an aesthetic act but as a moral statement. We aim to promulgate American values in our educational institutions, laws, and culture. We do this by disseminating the truth about the American Founding, our shared history, and the principles that underlie our constitutional republic. Today, the most salient enemy of these permanent truths is the purposeful lie of CRT and its ideological offshoots.

## II. Analysis

### A. House File 802 Prohibits CRT and Similar Divisive Ideas.

HF 802 prohibits any mandatory training and school curricula that incorporates “race or sex scapegoating” or “race or sex stereotyping.” HF 802, § 1, 25A.1(d)-(e). The statute defines race or sex scapegoating as:

assigning fault, blame or bias to a race or sex, or to members of a race or sex because of their race or sex, or claiming that, consciously or unconsciously, and by virtue of persons’ race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.

HF 802, § 2, 261H.7(a). Likewise, the statute defines race or sex stereotyping as “ascribing character traits, values, moral and ethical codes, privileges, status, or

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<sup>3</sup> *Id.*

believes to a race or sex, or to an individual because of the individual's race or sex." HF 802, § 2, 261H.7(b).

Other proscribed conduct includes, but is not limited to, teaching the pernicious myth that "the United States of America and the state of Iowa are fundamentally or systemically racist or sexist" or that individuals "should be discriminated against or receive adverse treatment solely or partly because of [their] race or sex." HF 802, § 2, 261H.7(c)(2)-(4).

HF 802 applies to the Baxter Community School District by the express terms of HF 802, § 1, 25A.1(1)(b) and § 3, 279.74(2). Similarly, the statute expressly designates you as the responsible party in this matter—"the superintendent of each school district shall ensure that any curriculum or mandatory staff or student training provided by an employee of the school district . . . does not teach, advocate, encourage, promote, or act upon specific stereotyping and scapegoating toward others on the basis of demographic group membership or identity." HF 802, § 3, 279.74(2).

Against this comprehensive statutory framework, the Baxter Community School District is running headlong into legally prohibited territory with its "Social Justice in Literature" course. You are now on notice.

### **B. "Social Justice in Literature" Violates HF 802.**

The course description for "Social Justice in Literature" provides:

In this class students will use a social justice lens to analyze contemporary young adult fiction. Students will focus on readings of their own choice based on contemporary issues and then will participate in group discussions on how the issues were presented in the book and how those same issues can be seen and experienced in the real world. Students will create a portfolio based on the novels they read over the course of the year which will culminate into a final project focusing on social justice in their own lives and community.<sup>4</sup>

We will explain how this course violates HF 802 by anticipating and answering your objections.<sup>5</sup> As we understand it, there are three points Baxter Community School

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<sup>4</sup> See Email from Rob Luther to Christie Wiebbecke and Mickolyn Clapper, dated Sept. 15, 2021, at 9:46 p.m. (on file with author).

<sup>5</sup> We understand that Dr. Wendy Anderson, Baxter Community School District's curriculum director, claims that this course does not transgress HF 802. Indeed, Dr. Anderson

District may rely upon for the proposition that this course does not violate HF 802. First, it is an elective course at Baxter High School. Second, the course is student-driven—that is, “[s]tudents have complete freedom over the issues that they want to collect on their lists”; “[t]here are no required readings and students have complete choice over the books that they read”; and “[t]he instructor then approves the book to just make sure it is on-level for a high school reading level.”<sup>6</sup> Third, the course does not explicitly mention race and sex and the other divisive concepts that HF 802 prohibits. We address these points *seriatim*.

As an initial matter, that “Social Justice in Literature” is an elective course affords no distinction or protection. HF 802, § 3, 279.74 provides that “the superintendent of each school district shall ensure that *any* curriculum . . . provided by an employee of the school district . . . does not teach, advocate, encourage, promote, or act upon specific stereotyping and scapegoating toward others on the basis of demographic group membership or identity.” (emphasis added). The elective status of the course does not grant cover because HF 802 prohibits the divisive concepts it outlines in “*any* curriculum.” A plain reading of the word “any” includes “all”—elective and mandatory courses alike. *See State v. Johnson*, 744 N.W.2d 646, 649 (Iowa 2008) (“The term ‘any’ means ‘all.’”) (citing *State v. Bishop*, 132 N.W.2d 455, 458 (Iowa 1965) (“‘Any’ means all or every.”)). Therefore, this course is covered and prohibited by HF 802.

The student-driven nature of the course is equally unconvincing. As Principal Rob Luther explained to Ms. Wiebbecke, the instructor, Ms. Cassidy Applegate-Brummell, will approve the books that the students select, thereby exercising educational authority and control by her ability to accept or reject the students’ book choices. Moreover, precisely because the school district and its teachers are prohibited from teaching, advocating, or promoting CRT concepts, they have an affirmative duty to ensure that any books the students select comport with HF 802. By failing to require teachers to review the books for impermissible content, you are creating the permission structure for the law’s violation. Simply put, where a teacher approves a book for an appropriate reading level but ignores its content for conformity with HF 802, the teacher is tacitly endorsing and promoting that book and the potentially prohibited concepts contained in it. This violates the law.

Finally, the rose-by-any-other-name argument will not salvage the course. It is of no moment that “Social Justice in Literature” and its accompanying course description

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attempted to convince Ms. Wiebbecke of this proposition at an in-person meeting on October 28, 2021, and even employed a copy of HF 802 to that effect. Dr. Anderson is, to put it charitably, mistaken.

<sup>6</sup> *See* Email from Rob Luther to Christie Wiebbecke, dated Sept. 17, 2021, at 8:23 a.m. (on file with author).

do not explicitly mention race and sex. This is because the very concept of “social justice” is today fixated on race, sex, gender, and equity. Famed economist, social theorist, and philosopher F.A. Hayek observed that “[j]ustice is an attribute of individual action. I can be just or unjust towards my fellow man. But the conception of social justice . . . is not only a meaningless conception, it’s completely impossible.”<sup>7</sup> From this vacuum, the term has come to mean whatever is the current *raison d’être* of the academic left and the activist class.

In its definitive study, *Social Justice Education in America*, the National Association of Scholars (NAS) explained that “social justice” does not have a definition but operates as a sensibility among the ideological left.<sup>8</sup> Social justice has come to mean: “I dislike the United States and American culture. American society treats people unfairly. American culture elevates the wealthy and the privileged over everybody else. It is oppressive. I’m oppressed. . . . Calling for social justice is a way of bringing people together to overthrow the systemic injustices all around us.”<sup>9</sup> Indeed, the very idea of a unified American republic is tarred as a fraud within the social justice milieu: “The phrase in the Pledge of Allegiance, ‘one nation, indivisible, with liberty and justice for all,’ sounds like a bitter lie to the adherents of the social justice alliance. ‘One nation?’ No, we are two nations: one for the super-rich and one for the people the rich exploit. ‘Liberty?’ No, we live in fear of men/cops/corporations/fossil fuels/ white nationalists, etc.”<sup>10</sup>

NAS’s research reveals that “[s]ocial justice educators define education as the practice of social justice activism. Experiential learning, which is vocational training in social justice activism, is the heart of social justice education.”<sup>11</sup> Within this activist paradigm, social justice education “draws heavily on scholarly schools

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<sup>7</sup> *Firing Line* (original PBS broadcast Nov. 7, 1977), <https://www.youtube.com/watch?v=RnMd40dqBIQ&t=345s>. One of Hayek’s most accomplished students, noted social theorist and economist Thomas Sowell, has written of the social justice idea: “Warm, fuzzy words and phrases have an enormous advantage in politics. None has had such a long run of political success as ‘social justice.’ The idea cannot be refuted because it has no specific meaning.” Thomas Sowell, *Using words to confuse*, Orange Cnty. Reg., Sept. 15, 2010, <https://www.oregister.com/2010/09/15/thomas-sowell-using-words-to-confuse/>.

<sup>8</sup> David Randall, *Social Justice Education in America*, Nat’l Ass’n of Scholars 13 (Dec. 2019), <https://www.nas.org/reports/social-justice-education-in-america>.

<sup>9</sup> *Id.* at 12.

<sup>10</sup> *Id.* at 13.

<sup>11</sup> *Id.* at 20. The study further observed the statist, anti-liberal character of social justice priorities: “the trouble is that social justice theory also justifies the exercise of the state’s coercive power to bring its particular moral aspirations into practice—and that it does not recognize as equally important such rival moral aspirations as individual liberty and the rule of law.” *Id.* at 39.

that have grown up around the work of a few notable intellectuals,” including the “[c]ritical race theory” of Harvard Law Professor Derrick Bell and the “[g]ender identity and expression” work of radical philosopher Judith Butler.<sup>12</sup> One cannot throw a social justice rock, as it were, without hitting a CRT and sex-scapegoating ideological commitment. This is because “social justice education” is “the curricular” and “critical race pedagogy” of those committed to “a liberatory or transformative response to racial, gender, and class oppression.”<sup>13</sup>

Therefore, by offering “Social Justice in Literature” to Baxter High School students, you are, in practice, advocating, encouraging, and promoting the race and sex stereotyping and scapegoating that HF 802 proscribes. Simultaneously, you are leading impressionable students into social justice activism, which the course expressly encourages by requiring students to submit “a final project focusing on social justice in their own lives and community.” This is an abdication of your responsibility to follow Iowa law and a core violation of your fiduciary obligation as superintendent to ensure the aims of public education have been achieved. The United States Supreme Court has repeatedly made clear that, contrary to the revolutionary priorities of social justice activists, the “role and purpose of the American public school system” is to “prepare pupils for citizenship in the Republic. . . . It must inculcate the habits and manners of civility as values in themselves conducive to happiness and as indispensable to the practice of self-government in the community and the nation.” *Bethel Sch. Dist. v. Fraser*, 478 U.S. 675, 681 (1986) (quoting C. Beard & M. Beard, *New Basic History of the United States* 228 (1968)). See also *Ambach v. Norwick*, 441 U.S. 68, 78 n.8 (1979) (observing that “the curricular requirements” of the “public school system reflect some of the ways a public school system promotes the development of the understanding that is prerequisite to intelligent participation in the democratic process.”).<sup>14</sup>

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<sup>12</sup> *Id.* at 41-42.

<sup>13</sup> Daniel G. Solorzano & Tara J. Yosso, *Maintaining Social Justice Hopes within Academic Realities: A Freirean Approach to Critical Race/LatCrit Pedagogy*, 78 *Denv. U. L. Rev.* 595, 598 (2001).

<sup>14</sup> Iowa’s democratically elected representatives prohibited CRT in the classroom for a reason—it is uniquely seditious. One CRT expert examined the ideology’s fundamentally revolutionary character, demonstrating its anti-liberal, anti-American purpose: “CRT [is] an unprincipled, divisive and ultimately unhelpful attack on the liberal tradition in America” because it holds that “racism is endemic to American life,” and that our constitutional regime “is structurally incapable of achieving racial equality because law is essentially politics, and politics is white supremacy.” Jeffrey J. Pyle, *Race, Equality and the Rule of Law: Critical Race Theory’s Attack on the Promises of Liberalism*, 40 *B.C. L. Rev.* 787, 789-97 (1999). Thus, CRT is not educational, but is instead about indoctrination. This ideology is willfully subversive of American civilization and the purpose of its public schools. *Cf. Bethel Sch. Dist. No. 403*, 478 U.S. at 683 (“The process of educating our youth for citizenship in public schools

Baxter Community School District should immediately get out of this fraught area, where Iowa law makes clear you have no right to be, and where you do neither your students nor your country any good by remaining.<sup>15</sup>

### III. Conclusion

We demand that you immediately rescind the “Social Justice in Literature” course because, as analyzed above, it violates HF 802. By the close of business, June 28, 2022, please confirm in writing that (1) the course has been rescinded, (2) parents, students, and teachers have been advised accordingly, and (3) that you intend to follow the legislative mandate of HF 802 going forward.

Without satisfactory confirmation, we will advise Ms. Wiebbecke and other similarly situated concerned parents of other avenues for vindicating their rights. To this end, we are advising you to immediately place a litigation hold on all email accounts, document collections, social media accounts, and all other sources of information or communications, including electronically stored information, that references in any way the “Social Justice in Literature” course and how it came to be offered. You are on notice to cease and desist from deleting or destroying any of these records by this request. We consider these records to be valuable and irreplaceable sources of discoverable information.

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is not confined to books, the curriculum, and the civics class; schools must teach by example the shared values of a civilized social order.”).

<sup>15</sup> One group recently exposed Iowa school administrators who have been dissembling and employing the obtuse language of social justice to circumvent HF 802’s prohibition on teaching CRT. Shane Vander Hart, *Video reveals Des Moines Metro school officials discussing skirting anti-CRT law*, Iowa Torch, Apr. 22, 2022, <https://iowatorch.com/2022/04/22/video-reveals-des-moines-metro-school-officials-discussing-skirting-anti-crt-law/>. Ryan Williams, Iowa’s Urbandale Community School District’s Coordinator of Equity & Inclusion, stated that HF 802 “really hasn’t affected us at all. Have we had to shift our language? Absolutely.” *Id.* Likewise, Lindsay Law, Iowa’s Waukee Community School District’s Director of Student Equity stated that HF 802 “hasn’t really changed anything.” *Id.* She explained that Iowa schools can still teach about systemic oppression and social justice, but “[w]e’ve been careful around the wording” and have “move[d] away from like, ‘supremacy,’ things like that or anything that says ‘white’ anything in it. But we still use the word ‘oppression.’” *Id.* As Law explained, relabeling the divisive concepts HF 802 prohibits is “the game.” *Id.* This game will not stand.

Very truly yours,



Craig W. Trainor  
Senior Litigation Counsel  
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**CC: Relevant Parties**

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